

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CARLOS BROOKS, #197616,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:17-CV-22-WKW
	)	
ROEISHA BUTLER, et al.,	)	
	)	
Defendants.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Carlos Brooks (“Brooks”), a state inmate, filed this 42 U.S.C. § 1983 action in which he alleges that the correctional defendants failed to protect him from attack by another inmate. *Doc. No. 1* at 3. Brooks maintains that the alleged attack occurred on December 11, 2016 while he watched television in the dorm at Bullock Correctional Facility (“Bullock”). *Id.*

The court attempted service on Sgt. Jackson, a correctional officer identified by Brooks as employed at Bullock on the date of the incident and named defendant in this case. However, the postal service returned the service materials to the court with the notation that Sgt. Jackson was “Not-Known” at Bullock. In light of the foregoing, the court entered an order requiring General Counsel for the Alabama Department of Corrections to provide a current home and/or employment address for Sgt. Jackson. *Doc. No. 7*. In her response filed on February 14, 2017, General Counsel advised that “there was no record of a ‘Sgt. Jackson’ employed at Bullock Correctional Facility in December of 2016.” *Doc. 12*.

Upon receipt of this response, the court entered an order advising Brooks of the information provided by General Counsel and requiring that “on or before February 28, 2016 the plaintiff shall file an amendment to his complaint in which he provides the correct name for Sgt. Jackson.” *Doc. No. 13*. The order specifically cautioned Brooks that “if he fails to properly identify this officer this case will proceed only against those defendants who are properly identified as defendants.” *Id.*

As of the date of this Recommendation, Brooks has filed no response to this order. The court therefore concludes that Sgt. Jackson is due to be dismissed as a party to this cause of action. *See Tanner v. Neal*, 232 Fed. App’x 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate’s § 1983 action for failure to file an amended complaint in compliance with court’s prior order directing amendment and warning of consequences for failure to comply); *see also Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir.1989) (holding that, as a general rule, where a litigant has been forewarned dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. Sgt. Jackson be dismissed as a defendant in this cause of action as the record indicates that this individual was not employed at Bullock on the date of the alleged incident.
2. This case be referred back to the undersigned for additional proceedings against defendants Roeisha Butler, Officer Rivers and Correctional Medical Services.

The parties may file objections to the Recommendation on or before April 4, 2017. Any objections filed must specifically identify the findings in the Magistrate Judge’s

Recommendation to which he objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE, on this the 21st day of March, 2017.

/s/ Susan Russ Walker  
Susan Russ Walker  
United States Magistrate Judge